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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,845	02/27/2004	Mallappa I. Guggari	VAR-1007-US	8468

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EXAMINER

EDWARDS JR, TIMOTHY

ART UNIT

PAPER NUMBER

2635

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/789,845

Applicant(s)

GUGGARI ET AL.

Examiner

Timothy Edwards, Jr.

Art Unit

2635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2. Claims 24 and 35 recites the limitation "intercepting an existing control signal and superimposing a command on the existing control signal to communicate a command to a down hole device" in lines 2 and 3. There is insufficient antecedent basis for this limitation in the claims.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1,2,5-8,10-17,19-23,25-28,30-34,36 are rejected under 35 U.S.C. 102(b) as being anticipated by Weirich et al '323 (submitted prior art).

Considering claim 1, Weirich discloses a drilling system with sensors comprising, a) an equipment associated with an oil rig for manipulating a perceptible physical parameter associated with a borehole (see col 5, lines 18-33); b) a user interface for generating a command (see col 4, lines 4-11); c) a processor for sending a command to the

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equipment for manipulating the physical parameter in accordance with a command understood by the down hole device (see col 8, lines 6-21).

Considering claim 2, Weirich discloses the limitation of this claim see col 7, lines 7-14.

Considering claim 5, Weirich discloses the limitation of this claim see col 9, line 30 to col 10, line 28.

Considering claim 6, Weirich discloses the limitation of this claim see col 12, lines 28-51.

Considering claim 7, Weirich discloses the limitation of this claim see col 7, lines 52-55.

Considering claim 8, Weirich discloses the limitation of this claim see col 7, lines 52-55.

Considering claim 10, Weirich discloses the limitation of this claim see col 8, lines 28-31.

Considering claim 11, Weirich discloses the limitation of this claim see col 2, lines 20-42 and col 4, lines 53-58.

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Considering claim 12, Weirich discloses the limitation of this claim see col 8, lines 17-19.

Considering claim 13, Weirich discloses the limitation of this claim see col 4, lines 2-11 and col 6, lines 50-62.

Considering claim 14, Weirich discloses the limitation of this claim see col 11, lines 1-7.

Considering claim 15, Weirich discloses the limitations of this claim see col 8, lines 12-19 and col 10, lines 40-52.

Considering claim 16, the limitation of this claim is interpreted and rejected as stated in claim 2.

Considering claims 17, 28 the limitation of this claim is interpreted and rejected as stated in claim 8.

Considering claims 19, 31 the limitations of these claims are interpreted and rejected as stated in claim 11.

Considering claim 20, the limitation of this claim is interpreted and rejected as stated in claim 10.

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Considering claim 21,32 the limitations of these claims are interpreted and rejected as stated in claim 6.

Considering claim 22,33 the limitations of these claims are interpreted and rejected as stated in claim 12.

Considering claim 23,34 the limitations of these claims are interpreted and rejected as stated in claim 13.

Considering claim 25,36 the limitation of this claim is interpreted and rejected as stated in claim 14.

Considering claim 26, the limitations of this claim are interpreted and rejected as stated in claim 15.

Considering claim 27, the limitation of this claim is interpreted and rejected as stated in claim 7.

Considering claim 30, the limitation of this claim is interpreted and rejected as stated in claim 5.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3, are rejected under 35 U.S.C. 103(a) as being unpatentable over Weirich et al.

Considering claim 3, Weirich does not specifically recite a top drive means. Weirich discloses (see col 6, line 63 to col 7, line 7 and fig 1) a drilling system including a derrick, which supports a rotary table that rotates the drill bit. One of ordinary skill in the art recognizes a top drive is an alternate method of driving a drill string attached to a drill bit. Therefore, it would have been obvious to one of ordinary skill in the art the rotary table of Weirich functionally addresses a top drive because it would have been obvious to of ordinary skill in the art to use an alternative method of rotating a drill bit. Both methods accomplish the task of rotating a drill bit.

5. Claims 4,9,18,29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weirich as applied to claim 1 above, and further in view of Hall '469 (submitted prior art).

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Considering claim 4, Weirich does not specifically recite a trace injection system.

Weirich discloses in col 5, lines 18-22 a desire to know the fluid flow rate in a well bore system. Hall teaches it is well known in the art to use a trace injection system to determine the flow rate of well bore fluid. Therefore, it would have been obvious to one of ordinary skill in the art to use a trace injection system in the Weirich system as taught by Hall because both systems are concern with determining the fluid flow rate in a well bore system and Hall teaches the use a trace injection system to determine the flow rate of well bore fluid is well known in the art.

Considering claims 9,18,29 the limitation of these claims are interpreted and rejected as stated in claim 4.

***Allowable Subject Matter***

6. Claims 24 and 35 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the prior art fails to teach or suggest intercepting an existing control signal and superimposing a command on the existing control signal to communicate a command to a down hole device.



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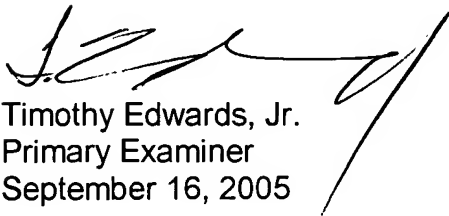
7. Any inquiry concerning this communication should be directed to Examiner Timothy Edwards at telephone number (571) 272-3067. The examiner can normally be reached on Tuesday-Friday, 8:00 a.m.-6:00 p.m. The examiner cannot be reached on Mondays.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik, can be reached at (571) 272-3068.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-4700, Mon-Fri., 8:30 a.m.-5:00 p.m.

Any response to this action should be fax to:

(571), 273-8300 (for formal communications intended for entry)



Timothy Edwards, Jr.  
Primary Examiner  
September 16, 2005